

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1586.00  
**COMPLAINT INVESTIGATOR:** Jane Taylor-Holmes  
**DATE OF COMPLAINT:** June 7, 2000  
**DATE OF REPORT:** July 17, 2000  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** September 5, 2000

**COMPLAINT ISSUES:**

Whether the Merrillville Community Schools and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *individualized education program* (the "*IEP*") as written, and as ordered by the independent hearing officer and affirmed by the Board of Special Education Appeals.

An extension of time was granted from the original due date of July 7, 2000, to July 21, 2000.

**FINDINGS OF FACT:**

1. The student (the "Student") is 14 years old and completed the eighth grade during the 1999-2000 school year. The Student is eligible for special education and related services as a student with a learning disability ("LD").
2. The complainant (the "Complainant") filed for a due process hearing ("Hearing #1142.00") on January 13, 2000. Hearing #1142.00 was held on February 22 and 23, 2000.
3. One of the Complainant's contentions in Hearing #1142.00 was that the Student's *IEP* had not been implemented, specifically with respect to the following items.
  - a. The Complainant was not a participant in the selection of the Student's computer math program.
  - b. The Complainant did not receive weekly progress notes.
  - c. The Student's instructional materials were not enlarged to 14 font.
  - d. The Student's study guides were not enlarged to 14 font.
4. The independent hearing officer (the "IHO") rendered the decision (the "Decision") on March 17, 2000, which included the following Orders:
  - a. Since the math program has been purchased and loaded on the same school computer, although without the Complainant's participation, the spirit of the requirements of the *IEP* was fulfilled.
  - b. A report will be sent each Friday to keep the Complainant informed of the Student's assignments and progress. The Complainant is to call the School immediately if she

- does not receive such report on Friday. Faxing the report is an alternative to consider to assure delivery of the weekly report.
- c. All instructional materials (i.e. text books, study guides, assignments) shall be enlarged to 14 font.
  - d. Study guides shall continue to be prepared and shall be enlarged to 14 font.
5. The Complainant requested an extension of time to and including May 17, 2000, to prepare and file a petition for review. The board of special education appeals (the "BSEA") granted this request. On May 16, 2000, the Complainant filed a petition for review.
6. On May 23, 2000, the local school corporation (the "School") requested an extension of time, to and including June 2, 2000, to prepare and file a response to the Complainant's petition for review. The BSEA granted the School's request the day of its receipt.
7. On June 6, 2000, the BSEA conducted a review of Hearing #1142.00, and included the following Finding of Fact in its written decision. "The School was remiss in not ensuring that all services described in the Student's *IEP* were provided with respect to:
- a. purchasing a mathematics computer program without the Complainant's input;
  - b. not providing weekly progress reports on a consistent basis;
  - c. not providing all the study guides; and
  - d. not enlarging all instructional materials."
8. The BSEA's Orders affirmed the IHO's Orders, including those identified in Finding of Fact # 4.
9. The BSEA's decision and Orders did not become final until the time in which either party could appeal to state or federal civil court elapsed, specifically July 13, 2000.

#### **CONCLUSIONS:**

1. Findings of Fact #2 through #9 indicate that the School has not had an opportunity to comply with the final Orders from Hearing #1142.00. The IHO's Orders did not become final until affirmed by the BSEA and the expiration of the time to appeal to court. No violation of 511 IAC 7-12-1 has occurred.

**The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.**

DATE REPORT COMPLETED: July 17, 2000